

ATTACHMENT 5



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2005-2006

March 06, 2013

Charles S. Skinner
Omicron Technologies, LLC
543 Edgemont Avenue
Lansdale, PA 19446-1909

Re: Applicant Name: SAN JOSE CONSERVATION CORPS
CHARTER SCHOOL
Billed Entity Number: 228886
Form 471 Application Number: 482177
Funding Request Number(s): 1334733
Your Correspondence Dated: February 24, 2013

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2005 Revised Funding Commitment Decision Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1334733
Decision on Appeal: **Denied**
Explanation:

- In reviewing the request to change the Service Provider Identification Number (SPIN), USAC has determined that the applicant certified to the following:
 - 1) The SPIN change requested is allowed under all applicable state and local procurement rules,
 - 2) The SPIN changes are allowable under the terms of the contract between the applicant and its original service provider, and
 - 3) The applicant has notified its original service provider of its intent to change service providers.

Since the applicant provided the relevant certifications and thus complied with the standards established by the FCC in its Copan Public Schools Order, the request for a

service provider substitution was properly approved in accordance with the FCC rules. In your appeal, you did not show that USAC's original decision was incorrect. Consequently, your appeal is denied.

If the applicant has breached their contract with you as the original service provider, USAC's decision does not prejudice your rights to seek remedies for the breach of contract outside of the Schools and Libraries Program.

In the FCC's Copan Public Schools Order, the Commission determined that SPIN change requests would be granted when the applicant certifies that (1) the SPIN change is allowed under its state and local procurement rules and under the terms of the contract between the applicant and its original service provider, and (2) the applicant has notified its original service provider of its intent to change service providers. See Request for Review by Copan Public Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc., CC Docket Nos. 96-45 and 97-21, 15 FCC Rcd 5498, FCC 00-100 (rel. Mar. 16, 2000); See also SPIN Change Guidance under Reference area at www.usac.org/sl. Additionally, as part of the Copan Order, the FCC stressed that any disputes concerning private contract laws are outside of the FCC's jurisdiction: "...If an applicant's original service provider disputes the applicant's legal justification for terminating a contract with that provider, we note that our determination to permit a SPIN change in that instance should not prejudice the parties' rights under that contract. Rather, in light of the Commission's longstanding policy of refusing to adjudicate private contract law questions for which a forum exists in the state courts, a state court and not the Commission is the appropriate forum for rendering such a determination. See *Listeners' Guild v. FCC*, 813 F.2d 465, 469 (D.C. Cir. 1987)". See *Id.* at n. 23.

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either USAC or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

cc: Neil Kozuma